

Public Review of the Draft and Subsequent Changes

The committee, through the efforts of the Idaho Department of Lands and the Office of Species Conservation, mailed notices of the availability of the public review draft of the Forest Legacy Program Assessment of Need. This letter explained that the draft was available on the Department of Lands website, urged them to review it and instructed them in where and how to submit comments on the draft. In total, letters were sent to:

- 1,701 individuals and businesses,
- 50 representatives of trade associations or non-governmental organizations,
- 200 representatives of state, federal and local agencies across Idaho,
- 65 elected officials, and,
- 13 representatives of tribal governments in Idaho.

Many of the public agencies and non-governmental organizations included local entities such as soil conservation districts or resource conservation and development districts that maintain their own mailing lists, newsletters and other means to communicate with their members, and, therefore had the ability to extend information on the availability of the draft. In addition, 75 copies of the draft document were mailed, with a copy sent to each county commission in the state and others to those whom requested a copy. Finally, the availability of the draft on the IDL website was the subject of a statewide press release distributed by the Department of Lands.

From this distribution of the draft and the notice of its availability, the Office of Species Conservation received sixteen individual comments, many of which included a number of separate suggestions for improving the draft. In addition, eight commenters expressed general support for program. Each of the suggestions for changes to the draft document are summarized as follows, along with the committee's responses to them.

1. "A conservation easement can negatively affect the value of the property...I have no problem [with them] so long as the landowner is fully informed of what it means" (three similar comments received).

Response: Easements are legal instruments and encumbrances on the lands enrolled in the program. The program is based on "willing buyers and willing sellers", and does not suggest or prescribe additional regulations, either on lands not enrolled in the program or apart from those negotiated and agreed upon as part of the easement. The final Assessment of Need strengthens the language that describes conservation easements on page 45.

2. "Could you give tax rebates for those who wish to improve forest management?"

Response: Idaho's forestland tax laws allow property taxes based on forest productivity rather than "highest and best use". This treatment provides for lower taxes on forestlands. Also, Idaho law provides a tax credit for land management activities carried out as part of

certain efforts to protect water quality, fish or wildlife habitat. Further tax incentives are not within the purview of the Forest Legacy Program.

3. “Our biggest concern is the use of forest lands for timber harvesting... and this historic use should be protected.”

Response: The committee agrees and this objective is clearly included in the “Assessment of Need”.

4. “Our concern is funding for the program...will [it] carry so many requirements that it will be hard to maintain historic uses of forestlands?” (Three similar comments received)

Response: Congress will make funding decisions each year, and, as such, there can be no commitments for future funding levels. Congress could also change the qualifications for Forest Legacy projects. Each landowner contemplating enrolling his or her lands in the program will have to judge whether the encumbrances placed on it or the requirements of the program at that time are acceptable to him.

5. “Who will oversee the Forest Legacy Program?” “How will it be administered?” (Three similar comments received).

Response: Current law places administration of the Forest Legacy Program with the Idaho Department of Lands and specifies the makeup of the Idaho Forest Stewardship Advisory Committee. This will be made clearer in the final “Assessment of Need” on page 46.

6. “The description and activities of the Idaho Soil Conservation Districts is not correct”

Response: The current description is rewritten in the final version on page 42.

7. “The Forest Legacy Program can help Idaho meet the TMDL requirements. This point needs to be stronger in the report.”

Response: Inasmuch as the lands enrolled in the program will still likely be managed as they have been historically, inclusion of the lands per se would not seem to have as much of an impact on improving water quality as the management practices employed on them. There could be additional, unfavorable impacts to water quality if the lands in question were managed for uses other than historic ones.

8. “The Forest Legacy Program should address the habitat requirements of sensitive species”

Response: One criterion for judging an individual Forest Legacy proposal is “contribution to environmental and cultural values”, including habitats for all fish and

wildlife species. The committee believes the potential for protecting the habitat of sensitive species should be a factor to be considered in evaluating individual proposals and has included this in the criteria for evaluating project proposals on page 53.

9. “We suggest revisiting the priority scoring system...by including a measure of species richness and aquatic integrity to number of threatened and endangered species”

Response: The priority scoring system applies only to the six Forest Legacy Areas. It is anticipated that the committee will adopt additional criteria to evaluate individual Forest Legacy project proposals and “species richness” or “aquatic integrity” of the surrounding area could certainly be among them. A secondary, but related issue to be addressed by the Committee is whether higher scores for these criteria should be given to an individual project that would be helpful in maintaining that score or should funds be directed toward projects where scores are low and implementation of Forest Legacy projects might, over time, improve them. As described on page 54, the Committee will need to make further decisions regarding program implementation.

10. “Lands with Northern Idaho Ground Squirrel should be excellent candidates...funding should make the development of habitat conservation plans and safe harbor agreements more attractive to landowners.”

Response: Although adoption of final criteria for evaluating individual project proposals is up to the Idaho Forest Stewardship Advisory Committee, it would seem that any project that would preserve habitat for a listed species would certainly be attractive, as would the landowner’s participation in a conservation plan for those species.

11. “...The [Idaho Forest Stewardship Advisory] committee should include biologists, botanists and ecologists...”

Response: The required makeup of the Idaho Forest Stewardship Advisory Committee is specified in federal statute. The Department of Lands could presumably include “ad hoc” members to gain additional, useful perspectives and knowledge as described on page 46.

12. “Efforts should include a brochure distributed to the public describing the program and potential benefits”

Response: The Idaho Forest Stewardship Advisory Committee will take this under consideration as it develops procedures to implement the program and includes this as part of the future work of the Committee, as described on page 54.

13. “Timber harvesting practices on lands in the Forest Legacy Program should be governed by more protective measures than the Idaho Forest Practices Act....non-timber benefits should be protected in the easement agreements.”

Response: The specific provisions of each easement will represent a negotiated agreement between the state and the landowner. Provisions that maximize the protection of all forest values will be more valuable than an easement that offers only partial protection for these values.

14. “The Assessment guidelines need to address how noxious weeds are going to be monitored, prevented and controlled on private lands.”

Response: The national guidance for the program is silent on the matter of noxious weeds. Hence, there is no reference to them in Idaho’s Assessment of Need. Individual project proposals and easement requirements could address this problem, however.

15. “Idaho’s Forest Legacy Program needs to describe how the state will assess compliance with Forest Legacy agreements.”

Response: As the program is implemented, it will be incumbent upon the Department of Lands to develop careful compliance procedures. The Department has the statutory responsibility for assuring compliance with the provisions of each easement. This is described on page 45.

16. “The Forest Legacy Program’s purpose should be included in the document’s introduction”

Response: This suggestion was incorporated on page 1.

17. “The aquatic integrity map needs a better legend”

Response: The aquatic integrity map is based on a number of complex measures that are fully described in the pages immediately preceding the map.

18. “Table 11 implies that unemployment and poverty levels are tied to the timber industry...we experienced a major layoff in the mining sector”

Response: The narrative discussion will make clear that unemployment and poverty levels are not solely tied to changes in the forest products industry. Such changes were added to page 36.

19. “Figure 1 lists Forest and Woodland Types that are eligible for the Forest Legacy Program.”

Response: Basic eligibility in the program is a function of private forest ownership and forest vegetation on that land. Figure 1 and the accompanying maps for each Forest Legacy Area that show forest vegetation illustrate one part of the basic eligibility criteria - forest vegetation.

20. “The liberal interpretation used to get the acreage of forested land is, at best, overstated...the Department of Lands shows a lower amount of land that qualifies for forest protection dollars in the county”

Response: The committee encountered a number of discrepancies in the amount of private, forested lands for each county among various sources. This appears to be the result in differing definitions of “forests” and sources of data. The amount of these lands for each county used in the Assessment of Need was from the Forest Service’s 1991 survey of Idaho’s forestlands.

21. “I urge you to include easements for recreation access to public lands as an additional qualifier for the Forest Legacy Program.”

Response: Please note the response to #13.

22. “It is necessary that county officials be involved in the decisions on what development rights are purchased in each county.”

Response: It would appear that the sale of development rights or other private property rights is a matter to be decided by the individual landowner. Counties may, of course, restrict those transfers through zoning or other ordinances and some counties may wish to do that with respect to the Forest Legacy Program. The committee urges the Department of Lands to continue to include county elected officials in the implementation of the Program and their potential involvement with the Committee is described on page 46.

23. “Will the tax status be negatively impacted?”

Response: Since the lands enrolled in the Forest Legacy Program will be managed as they have been historically, there should be no reduction in taxes paid on them. However, if they were developed, the tax status would obviously change with higher taxes likely being levied on the same lands.

24. “The term ‘traditional forest uses’ needs to allow for multiple uses and activities designed to protect the health of the forest.”

Response: Please note the response to #13.

25. “Who determines the value of the development rights and is that value based on local markets?”

Response: Federally approved appraisers and appraisal methods must be employed for all Forest Legacy projects.

26. “Will funding be distributed equally to each Forest Legacy Area?”

Response: The committee envisions that each Forest Legacy project proposal will be evaluated against all others with the priority of the Forest Legacy Area being one evaluation

criteria. Hence, there will be no allocation of funds for an individual Forest Legacy Area, per se.

27. “Who defines “near-term threats of conversion.”

Response: The development of this and other project evaluation criteria will be the responsibility of the Idaho Forest Stewardship Advisory Committee, as described on page 54.

28. “Would an expansion of an existing timber-related use be allowed or could you only maintain the existing level of forest use?”

Response: Please note the response to #13.

29. “Recent fires have demonstrated the susceptibility of wilderness areas...this issue should be addressed...[timber] harvests on federal lands has plummeted...stabilization of federal timber harvests would appear to be a more than promoting a decreased harvest on non-federal land”

Response: There is no relationship between the Forest Legacy Program and the management of the National Forests.

30. “Care should be taken that easements intended to preserve forested lands do no divert development to productive agricultural property.”

Response: There would appear to be nothing inherent in the Forest Legacy Program that would direct development from one land class to another. There are similar programs that seek to preserve agricultural lands through conservation easements.

31. “The program must be completely voluntary with no governmental pressure on the landowner”

Response: The Committee agrees and each landowner who seeks enrollment in the program must assess his or her reasons for doing so. There are no regulations on land use or management imposed on lands not enrolled in the program and there is no eminent domain or adverse condemnation authorized by the program.

32. “The program must protect the timber production capability of these lands.”

Response: This is clearly one of the program’s objectives for Idaho.

33. “The program must not lead to new regulations or added costs for landowners.”

Response: Please note the response to #13.

34. “The final program should draw heavily on the private sector as part of the governing committee.”

Response: Please note the response to #11.

35. “A public education piece detailing examples of program results in other state and the potential money available would be helpful.”

Response: Please note the response to #12.

36. “Should the public participation process be included in the Assessment of Need?”

Response: The process for public review of the draft Assessment of Need, the comments received and the responses to them are included in the final document.

37. “Should there be a table identifying which organizations in Idaho are capable of holding conservation easements?”

Response: When a state elects the “state grant option”, all future easement acquisitions made under the Forest Legacy Program shall be transacted by the state with title vested in the state or a unit of state or local government. There are three exceptions: (1) Active cases predating the state grant option request, where all parties agree that the case should be completed by the Forest Service and title vested in the U.S.; (2) Donations where the donor may wish to make a donation to a land trust, a unit of local government or the federal government and the recipient agrees to accept the donation and to manage the lands or interest in lands in perpetuity for Forest Legacy Program purposes; and (3) At the request of the State and at the discretion of the Forest Service, that agency may acquire individual tracts or multiple tracts within a specified Forest Legacy Area, with title vested in the U.S. in accordance with Part 3 of the Forest Legacy Program Implementation Guidelines. Given these requirements of the program, there is no simple and all-inclusive list of organizations capable of holding conservation easements as part of the Forest Legacy Program, although a number of organizations can certainly do so under other provisions of state or federal law.

38. “The forest industry should have a representative on the Idaho Forest Stewardship Advisory Committee.”

Response: Please note the response to #11. In addition, there currently are representatives of the forest products industry on the Idaho Forest Stewardship Advisory Committee.

39. “Forest products companies should be informed of deadlines for project proposals.”

Response: That addition has been made in the final document on page 54.

40. “Are forest product companies eligible to participate in the program?”

Response: All private forest landowners, including forest products companies, with lands in the approved Forest Legacy Areas are eligible for the Program. The narrative of the final document makes that clear on page 49.

41. “Should the eligibility criteria include additional points if the proposal is mentioned as an “important forest area” in other plans?”

Response: Please note the response to #27.

42. “A list of the 23 T&E species should be included.”

Response: Appendix III includes the list of these species, together with their occurrence in each county.